

ST. FRANCIS MINING CO.

IBLA 80-774

Decided March 5, 1981

Appeal from decision of the Alaska State Office, Bureau of Land Management, declaring mining claims abandoned and void. AA-31913 through 31920.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Affidavit of Assessment Work or Notice of Intention to Hold Mining Claim

Under 43 U.S.C. § 1744 (1976) and 43 CFR 3833.2-1 the owner of an unpatented mining claim located on Federal lands on or before Oct. 21, 1976, must file with BLM evidence of annual assessment work or a notice of intention to hold the mining claim on or before Oct. 22, 1979, or on or before Dec. 30 of each calendar year following the year of recording with BLM, whichever is sooner. The requirement is mandatory and failure to comply conclusively constitutes abandonment of the claim by the owner.

2. Administrative Authority: Estoppel

Reliance upon erroneous advise or incomplete information provided by Departmental employees cannot relieve the owner of a mining claim of an obligation imposed on him by statute for failure to comply with its requirements.

## 3. Notice: Generally -- Regulations: Generally -- Statutes

All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations.

APPEARANCES: Richard Whittaker, for appellant.

## OPINION BY ADMINISTRATIVE JUDGE FRAZIER

This appeal is taken from a decision dated June 6, 1980, by the Alaska State Office, Bureau of Land Management (BLM), which declared appellant's St. Francis #1 through #7 and St. Francis #41 lode mining claims abandoned and void for failure to comply with filing requirements under the Federal Land Policy and Management Act of 1976 (FLPMA), and 43 CFR 3833.2-1(a) which provides:

The owner of an unpatented mining claim located on Federal lands on or before October 21, 1976, shall file in the proper BLM office on or before October 22, 1979, or on or before December 30 of each calendar year following the calendar year of such recording, whichever date is sooner, evidence of annual assessment work performed during the preceding assessment year or a notice of intention to hold the mining claim.

The claims were located on September 5, 1971, and location notices filed with BLM on October 11, 1979. The decision declared the claims abandoned and void because no affidavit of assessment work or notice of intention to hold the claims was filed with BLM by October 22, 1979.

Appellant states that he inquired of BLM but was not advised as to filing deadlines, that he was denied due process, and that BLM should be estopped to deny the validity of his claims. Appellant asserts that he filed a notice of intention to hold at the time he filed his notices of location.

[1, 2, 3] The file contains an affidavit of assessment work received by BLM on December 17, 1979, almost 2 months after the filing deadline. The file does not show that a notice of intention to hold the claim was ever filed with BLM. 43 CFR 3833.4 requires that where the owner of an unpatented mining claim located prior to October 21, 1976, fails to file timely an affidavit of annual assessment work or notice of intention to hold the claim, his claim is deemed conclusively to be abandoned and to be null and void. James V. Brady, 51 IBLA 361 (1980). The statutory recordation requirement and its implementing

regulations were sustained against constitutional challenges in Topaz Beryllium Co. v. United States, 479 F. Supp. 309 (D. Utah 1979), appeal filed Civ. No. 79-2255 (10th Cir. Nov. 21, 1979). Reliance on erroneous advice or incomplete information cannot relieve a mining claimant of obligations imposed upon him by statute and regulations. Stephen Greist, 51 IBLA 287 (1980), since all persons dealing with the Government are presumed to have knowledge of duly promulgated statutes and regulations. Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43, CFR 4.1, the decision appealed from is affirmed.

Gail M. Frazier  
Administrative Judge

We concur:

Bruce R. Harris  
Administrative Judge

Anne Poindexter Lewis  
Administrative Judge

